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FROM DIRECTORS OFFICE

MAY 16 2006

TECHNOLOGY CENTER 3600

In re Application of	:	
Yoram Levanon et al.	:	DECISION ON PETITION UNDER
Application No. 09/534,170	:	37 C.F.R. 1.181 TO REVIEW
Filed: March 24, 2000	:	FINAL REJECTION
For: METHOD FOR PRODUCING	:	
OPTIMUM-EFFECT	:	
MARKETING	:	

This is in response to applicant's Petition filed on September 28, 2005, requesting withdrawal of the finality of the Office action mailed October 12, 2004 as being premature.

The petition is **DISMISSED AS MOOT**.

Petitioner alleges that the final rejection mailed June 28, 2005 was premature since this Office action did not consider and comment on the Rule 132 Declaration filed with the response of April 4, 2005.

MPEP 716.01(B) sets forth that "Evidence traversing rejections, when timely presented, must be considered by the examiner whenever present. All entered affidavits, declarations, and other evidence traversing rejections are acknowledged and commented upon by the examiner in the next succeeding action. The extent of the commentary depends on the action taken by the examiner."

A review of the record indicates that in response to applicants after final submission dated September 28, 2005, the examiner has already withdrawn finality of the Office action and issued a new, final rejection considering the Rule 132 Declaration on February 6, 2006.

Summary: *Petition Dismissed as Moot*


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